

SIMPSON THACHER & BARTLETT LLP

Jeffrey E. Ostrow (SBN 213118)
jostrow@stblaw.com
2475 Hanover Street
Palo Alto, California 94304
Telephone: (650) 251-5000
Facsimile: (650) 251-5002

DECHERT LLP

Noah M. Leibowitz (*Pro Hac Vice*)
noah.leibowitz@dechert.com
Three Bryant Park
1095 Avenue of the Americas
New York, New York 10036-6797
Telephone: (212) 698-3538
Facsimile: (212) 698-3599

Michael H. Joshi (SBN 302184)
michael.joshi@dechert.com
2440 W. El Camino Real, Suite 700
Mountain View, California 94040
Telephone: (650) 813-4814
Facsimile: (650) 813-4848

Attorneys for Plaintiff

SQUIRE PATTON BOGGS LLP

Frank L. Bernstein (SBN 189504)
frank.bernstein@squirepb.com
1801 Page Mill Road, Suite 110
Palo Alto, California 94304-1216
Telephone: (650) 843-3337
Facsimile: (650) 843-8777

SUGHRUE MION, PLLC

William H. Mandir (*Pro Hac Vice*)
John F. Rabena (*Pro Hac Vice*)
Yoshinari Kishimoto (*Pro Hac Vice*)
Fadi Kiblawi (*Pro Hac Vice*)
2100 Pennsylvania Ave. NW
Washington, DC 20037
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Attorneys for Defendants

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

INTRI-PLEX TECHNOLOGIES, INC.,

Plaintiff,

v.

NHK INTERNATIONAL CORPORATION;
NHK SPRING CO., LTD.; OGAKI SEIKO CO.,
LTD.; AND SEIKO HIGH TEC CORP.

Defendants.

Case No. 3:17-cv-01097-EMC

**JOINT STATUS REPORT AND
~~PROPOSED~~ ORDER**

Telephone Status Conference
Date: February 28, 2019
Time: 10:30 a.m.
Before: Hon. Edward M. Chen
Courtroom: 5, 17th Floor

1 Plaintiff Intri-Plex Technologies, Inc. (“Plaintiff” or “IPT”) and Defendants NHK
 2 International Corporation, NHK Spring Co., Ltd., Ogaki Seiko Co., Ltd., and Seiko High Tec
 3 Corp. (collectively, “Defendants”) hereby submit this Joint Status Report pursuant to Local Rule
 4 16-10(d).

5 By joint letter on January 25, 2019 (the “Joint Letter”), the parties in the above
 6 referenced action requested a teleconference to address a dispute related to claim construction.
 7 Dkt. No. 168. The teleconference was scheduled for February 2, 2019 and then rescheduled for
 8 February 28, 2019. Dkt. Nos. 169, 172. The parties submit this Joint Status Report to provide an
 9 update and summarize the issues for the teleconference.

10 1. As discussed in the Joint Letter, IPT believes that there exists a claim construction
 11 dispute relating to the calculation of the claimed geometry metric value that needs to be resolved.
 12 Defendants disagree and believe that the issue can be addressed in connection with summary
 13 judgment proceedings. Defendants intend to file a motion for summary judgment of
 14 invalidity/equitable estoppel due to evidentiary prejudice based on documents that were
 15 produced on November 9, 2018 and therefore were not in the record when Defendants filed their
 16 first motion for summary judgment.¹ Pursuant to the Court’s General Civil Standing Order,
 17 Defendants must request leave of Court to file more than one summary judgment motion. To
 18 address both the need to resolve the claim construction issue and Defendants’ desire to file a
 19 second summary judgment motion, the parties have reached a compromise, subject to the Court’s
 20 approval. IPT has agreed not to oppose Defendants’ request for leave to file its anticipated
 21 second summary judgment motion and Defendants have agreed that the claim construction issue
 22 (including whether or not an issue of claim construction exists and whether IPT waived any
 23 claim construction argument by not raising it earlier in connection with the original *Markman*
 24 proceeding) will be addressed as part of the briefing on Defendants’ summary judgment motion.

25
 26 ¹ Defendants also note that their first summary judgment motion was based on indefiniteness,
 27 which is an issue addressed during *Markman* proceedings. The Court, however, ruled that
 28 the record was not complete to make that finding during the *Markman* proceeding, and
 therefore invited Defendants to seek a ruling on indefiniteness via, for example, “a specific
 motion addressing this issue.” *Markman* Hearing Transcript (Dkt. No. 81) at 30:9-18; *see*
 also Order Re Claim Construction (Dkt. No. 77) at pp. 15-16.

2. The parties have a mediation scheduled on March 5, 2019. In light of the mediation, the parties have agreed to amend certain deadlines relating to expert discovery. The parties do not expect these changes to impact any other case deadlines. The parties have separately filed an appropriate stipulation. Dkt. 173.

3. The parties remain available for the teleconference scheduled on February 28, 2019 to address the above issues and, at the Court's direction, IPT's Motion for Relief from Nondispositive Pretrial Order of Magistrate Judge (Dkt. 170).

DATED: February 21, 2019

Respectfully submitted,

SIMPSON THACHER & BARTLETT LLP

By: /s/ Jeffrey E. Ostrow

Jeffrey E. Ostrow (SBN 213118)
jostrow@stblaw.com
2475 Hanover Street
Palo Alto, California 94304
Telephone: (650) 251-5000
Facsimile: (650) 251-5002

Noah M. Leibowitz (*Pro Hac Vice*)
noah.leibowitz@dechert.com
DECHERT LLP
Three Bryant Park
1095 Avenue of the Americas
New York, New York 10036-6797
Telephone: (212) 698-3538
Facsimile: (212) 698-3599

Michael H. Joshi (SBN 302184)
michael.joshi@dechert.com
DECHERT LLP
2440 W. El Camino Real, Suite 700
Mountain View, California 94040
Telephone: (650) 813-4814
Facsimile: (650) 813-4848

Attorneys for Plaintiff Intri-Plex Technologies, Inc.

SUGHRUE MION, PLLC

By: /s/ William H. Mandir

William H. Mandir (*Pro Hac Vice*)
John F. Rabena (*Pro Hac Vice*)
Yoshinari Kishimoto (*Pro Hac Vice*)
Fadi Kiblawi (*Pro Hac Vice*)
2100 Pennsylvania Ave. NW
Washington, DC 20037
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Frank L. Bernstein (State Bar No. 189504)
SQUIRE PATTON BOGGS LLP
1801 Page Mill Road, Suite 110
Palo Alto, CA 94065
Telephone: (650) 843-3337
Facsimile: (650) 843-8777
frank.bernstein@squirepb.com

Attorneys for Defendants

SIGNATURE ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I attest under penalty of perjury that concurrence in the filing of this document has been obtained from William H. Mandir.

/s/ Jeffrey E. Ostrow
Jeffrey E. Ostrow

~~PROPOSED~~ ORDER

Pursuant to the foregoing, the Court hereby GRANTS leave for Defendants to file a second summary judgment motion based on invalidity/equitable estoppel due to evidentiary prejudice. Vj g'vgr j qple"eqphgtgpeg'tgo ckpu"qp"uej gf wrg"cpf "vj g'r ctvku'uj qwf "dg'r tgr ctgf " vq'cf ftguu."kpgt"cnk."vj g'vko kpi "qh'vj g'uwo o ct { "lwf i o gpv'o qvqp0
 "*****K'KU'UQ'QTF GTGF 0'

DATED: February 25, 2019



HON. EDWARD M. CHEN
 WP KVGf "UVC VGU" DISTRICT JUDGE